



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JULY 15, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0042

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Unfounded (Expedited)
# 2	6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)

#### **Named Employee #3**

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)

#### **Named Employee #4**

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)

#### **Named Employee #5**

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)



Named Employee #6

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

**EXECUTIVE SUMMARY:**

It was alleged that the named employees engaged in biased-based policing by contacting, handcuffing, and arresting the Complainant due to his race.

**ADMINISTRATIVE NOTE:**

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's agreement, believed it could reach and issue recommended findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

**SUMMARY OF INVESTIGATION:**

**A. Blue Team OPA Complaint**

OPA received a Blue Team complaint from Witness Supervisor #1 (WS#1) on behalf of the Complainant. The complaint noted that the Complainant alleged he was arrested because he was Black. WS#1 screened the arrest and told the Complainant that he was arrested because officers had probable cause he committed a burglary. However, the Complainant disagreed and wanted the matter referred to OPA.

OPA made numerous attempts to contact the Complainant but was unsuccessful.

**B. Body-Worn Video (BWV) & Computer Aided Dispatch (CAD) Information**

OPA reviewed CAD data for the call. On January 16, 2023, around 8:05 PM, the named employees were dispatched to a burglary call. The call remarks noted:

*"[REPORTING PARTY] SEES MANY LIGHTS TURNED ON IN THIS VACANT HOUSE, [REPORTING PARTY] IS HOMEOWNER, ONGOING ISSUE OF BREAK-INS HERE, [REPORTING PARTY] HAS NOT CHECKED INSIDE, HAS NOT SEEN ANYONE, BUT JUST SAW ONE LIGHT GET TURNED OFF, NO [WEAPONS] SEEN."*



The reporting party/9-1-1 caller told the dispatcher that a white van was parked outside of his home and the plywood covering the windows and doors was removed. At 8:10 PM, CAD notes indicated the Complainant was a “probable suspect” based on information linked to the van.

OPA reviewed the named employees’ body-worn videos (BWV). In summary, BWV showed:

Named Employee #4 (NE#4) arrived at the scene and contacted the reporting parties – Community Member #1 (CM#1) and Community Member #2 (CM#2) – who explained that no one had permission to enter the home and that it was secured for about a month. Named Employee #1 (NE#1) and Named Employee #3 (NE#3) discussed previous responses at that address involving the Complainant – noting that the Complainant’s prior residential burglary charge was reduced to criminal trespass. CM#1 showed Named Employee #5 (paperwork from the Seattle Municipal Court documenting the prior incident.

As they approached the home, an officer said he saw a male inside. The officers conferred and agreed it was most likely the Complainant. NE#4 knocked on an exterior door and ordered the Complainant to exit. The Complainant came to the door, and the officers arrested him. The Complainant said he lived at the home for seven months and had documents from a judge authorizing him to stay there.

Officers entered the home and found the Complainant’s property inside. The documents the Complainant referenced was a statement of probable cause from the court, which did not grant the Complainant interest in the home. Rather, it noted that the Complainant’s prior charges were reduced from residential burglary to criminal trespass.

The Complainant protested his arrest, insisting the officers lacked probable cause. WS#1 *Mirandized* the Complainant and screened the arrest.

### **C. Officer Incident Reports**

OPA reviewed the incident report and officer statements. Both were consistent with OPA’s BWV review. Additionally, NE#4’s report cited that the backing officers previously arrested the Complainant at the same address and under similar circumstances. Named Employee #5’s (NE#5) report noted that he verified that CM#1 and CM#2 owned the property.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegation #1**

#### ***5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

The Complainant alleged that NE#1 arrested him because he was Black.

SPD prohibits biased policing, defined as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. That includes different treatments based on a subject’s race. *Id.*



Here, OPA found no evidence that the named employees did or said anything suggesting differential treatment based on a discernable personal characteristic. They were dispatched to an address where officers had previously arrested the Complainant for residential burglary. Officers found the Complainant inside the home and arrested him for residential burglary.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #1 - Allegation #2**

***6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***

The Complainant alleged that he was arrested without probable cause.

Officers must have probable cause to believe a suspect committed a crime before effectuating an arrest. SPD Policy 6.010-POL-1. An arrest unsupported by probable cause violates law and department policy. *Id.* Probable cause exists when the facts and circumstances within an officer's knowledge are sufficient to support a reasonable belief that an offense has been or is being committed. *See State v. Fricks*, 91 Wash.2d 391, 588 P.2d 1328 (1979); *State v. Gluck*, 83 Wash.2d 424, 426-27, 518 P.2d 703 (1974).

Here, NE#1 arrested the Complainant for the same offense – at the same address – approximately two months later. CM#1 showed officers documentation of the Complainant's previous arrest. Moreover, NE#1 recognized the Complainant immediately upon contacting him. Officers entered the home and found evidence that the Complainant unlawfully lived there. While the Complainant insisted that a judge authorized him to stay at the house, the paperwork he supplied did not support that claim. Finally, the Complainant claimed adverse possession of the property because he squatted there for seven months. However, adverse possession requires open and notorious possession for seven consecutive years, not seven months. *See RCW 7.28.070*.

Accordingly, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

**Named Employee #2 - Allegation #1**

***5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

For the reasons at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #2 - Allegation #2**

***6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***



---

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

**Named Employee #3 - Allegation #1**

***5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

For the reasons at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #3 - Allegation #2**

***6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

**Named Employee #4 - Allegation #1**

***5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

For the reasons at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #4 - Allegation #2**

***6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

**Named Employee #5 - Allegation #1**

***5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

For the reasons at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)



---

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #5 - Allegation #2**

***6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

**Named Employee #6 - Allegation #1**

***5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

For the reasons at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #6 - Allegation #2**

***6.010 Arrests-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**